

REMARKS

Claims 1-5, 7-10, 12-19, 21-22 and 25-29 are currently pending. Claims 1 and 14 have been amended to indicate the first and second indentations each have upward sloping sections and downward sloping sections. Support for these amendments is found in the originally filed FIG.'s 1 and 2 which clearly indicate such sections. Claims 26 has been amended to indicate that the intermediate portion of the bar has a cross-section width narrower than the width of the first flat side and the width of the second flat side. Support for this amendment can be found in originally filed FIG.'s 1-4 in which this feature is readily apparent. Claim 28 has been amended to indicate that the ring-shaped bar has a cross-section width narrower than the width of the first flat side and the width of the second flat side. Support for this amendment can be found in originally filed FIG.'s 1-4 in which this feature is readily apparent. Applicant respectfully submits that no new matter has been added by these amendments.

FIG.'s 1 and 2 have been amended to indicate that portions of the first indentation 30 are labeled as 80 and 82, and that portions of the second indentation 32 are labeled 84 and 86. FIG.'s 1 and 3 have been amended to indicate the width of the flat side 28 is labeled as 90. FIG.'s 1 and 3 have also been amended to indicate that the cross-sectional width of the intermediate section of the bar is labeled as 92. These amendments to the figures simply label structural features readily apparent in the originally filed drawings, and no new matter has been added.

Paragraph 0012 of the specification indicates that the intermediate portion has a cross-sectional width 92. The fact that the intermediate portion has a cross-sectional width is readily apparent from originally filed FIG.'s 1-4. Applicant submits that no new matter has been added by this amendment.

Paragraph 0013 of the specification has been amended to indicate that the flat sides 26 and 28 each have a width 90. The fact that the flat sides have a width is readily apparent from originally filed FIG.'s 1-4. Applicant submits that no new matter has been added by this amendment.

Paragraph 0018 of the specification has been amended to clarify that the first indentation 30 has an upward sloping section 80 and a downward sloping section 82 and the second indentation 32 has an upward sloping section 84 and a downward sloping section 86. The fact that the indentations have upward and downward sloping sections is readily apparent from originally filed FIG.'s 1-4. Applicant submits that no new matter has been added by this amendment.

Paragraph 0025 as been amended to correct the spelling of "aperture." Applicant submits that no new matter has been added by this amendment.

Claims 1-5, 7-10, 12-19, 21-22 and 25-29 currently stand variously rejected. The specification has been objected to for certain typographical errors. Claims 26 and 28 have been rejected under 35 USC § 112, second paragraph as being indefinite. Claims 1-5, 7, 9, 10, 12, 14-17, 19, 21, 22 and 25-29 stand rejected under 35 USC § 102(b) over U.S. Patent No. 3,297,293 issued to Andrews et al. (hereinafter "Andrews"). Claims 8 and 12 stand rejected under 35 USC § 103(a) as being obvious over Andrews. Applicant respectfully traverses these rejections for at least the following reasons.

Objections to the specification

The Examiner has objected to typographical errors in paragraphs 0018 and 0025. Applicant has amended paragraphs 0018 and 0025 to correct these errors.

Rejections under 35 USC § 112, second paragraph

Claims 26 and 28 stand rejected under 35 USC § 112, second paragraph as being indefinite. The Examiner has also objected to claim 26. The Examiner asserts that the language "diameter of the width" is unclear. Applicant has amended claim 26 and 28 to remove this language.

Rejections under 35 USC § 102(b)

Claims 1-5, 7, 9, 10, 12, 14-17, 19, 21, 22 and 25-29 stand rejected under 35 USC § 102(b) over Andrews. The Manual of Patent Examining Procedure "MPEP" § 2131 states that, in order to anticipate a claim, a reference must teach every element of the claim:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)."

Applicant submits that the Andrews reference has failed to disclose each and every element of claims 1-5, 7, 9, 10, 12, 14-17, 19, 21, 22 and 25-29.

Claims 1 and 14, as amended, are directed to concrete anchors comprising a bar which has "a first indentation having an upward sloping section and a downward sloping section, the first indentation being located on an inner portion of the bar, opposite a first flat side, and a second indentation having an upward sloping section and a downward sloping section, the second indentation being located on an inner portion of the bar, opposite a second flat side." See claims 1 and 14 emphasis added. This specific design allows the aperture portion to better receive and fit with lifting hardware of cranes. Claims 2-5, 9, 12-13 and 26-29 depend directly from claim 1 and therefore have all the limitations of claim 1. Claims 15-17, 19, 21, 22 and 25 depend directly or indirectly on claim 14 and therefore have all the limitations of claim 14.

The Andrews reference is directed towards a fastening device which is attached to a base. The Andrews reference fails to teach or suggest any anchor bar having indentation sections having upward and downward sloping sections. As the Andrews reference fails to teach this element, the reference fails to anticipate claims 1 and 14 and the claims that depend from them.

Furthermore, the Examiner has asserted that the Andrews reference anticipates claim 2, as *In re Hotte*, 177 USPQ 326, 328 (CCPA 1973) interprets the term "integral" as including fastening and welding as taught in Andrews. However, in the *In re Hotte* case, there was no other teaching in the specification that indicated what "integral" meant. Such is not the case in the present application. Paragraph 0014 on page recites that:

"In some embodiments, as illustrated in FIGS. 1-5, the stem 14 can be integrally formed with the bar 12 at the upper end 34 of the stem 14, and integrally formed at the lower end 36 with the foot 16. In other embodiments, the bar 12 and/or the foot 16 can be coupled to the upper end 34 of the stem 14 and/or the lower end 34 of the stem 14, respectively, via a variety of securing means, including, but not limited to, at least one of a fastener (e.g., one or more nails, screws, tacks, staples,

bolts, etc.), welding (e.g., by tack welding, etc.), soldering, a press-fit engagement, a snap-fit engagement, or a variety of adhesives known to those of ordinary skill in the art.”

The specification clearly differentiates anchors where the bar, upper end, and foot are “integrally” formed (indicated as one embodiment), separate from anchors where the bar and/or foot are connecting to the stem via a variety of securing means, including fastening and welding means. The Court of Appeals for the Federal circuit recently ruled in *Phillips v. AWH Corp.* 415 F.3d 1303, (Fed. Cir. 2005) that “in light of the statutory directive that the inventor provide a “full” and “exact” description of the claimed invention, the specification necessarily informs the proper construction of the claims.” See *Phillips v. AWH Corp.* 415 F.3d 1303, 1316 (Fed. Cir. 2005). In light of the specification, therefore, “integrally” formed anchors are considered separate and different from anchors where the components are connected by securing means. In light of this teaching an “integrally” formed anchor is considered a unitary, single body, such as those formed by drop forging or casting (see paragraph 0012 of the specification). As the Andrews reference fails to teach such an integrally formed anchor, the reference fails to anticipate claim 2.

As the Andrews reference fails to teach all of the elements of claims 1-5, 7, 9, 10, 12, 14-17, 19, 21, 22 and 25-29, the reference fails to anticipate the claims. Applicant therefore respectfully requests that the Examiner withdraw the rejection to the claims.

Rejections under 35 USC § 103(a)

Claims 8 and 12 stand rejected under 35 USC § 103(a) as being obvious over Andrews. The MPEP § 2141.03 states:

“To establish a *prima facie* case of obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). “All words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 165 USPQ 494, 496 (CCPA 1970).”

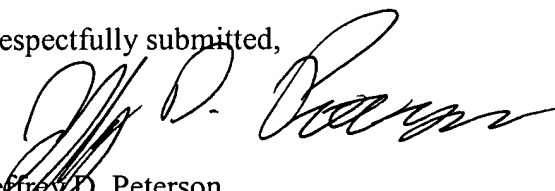
Applicant respectfully submits that the Office Action has failed to put forth a *prima facie* case of obviousness, as the Andrews reference fails to teach or suggest all of the limitations of claims 8 and 12.

Claims 8 and 12 depend from claim 1 directly or indirectly. As discussed above, claim 1 has been amended to claim an anchor bar having indentations with upward and downward sloping sections. As the Andrews reference fails to teach or suggest any such arrangement, the reference fails to provide a *prima facie* case of obviousness with respect to claims 8 and 12. As the Andrews reference fails to provide a *prima facie* case of obviousness, Applicant respectfully requests that the Examiner withdraw the rejections to claims 8 and 12.

SUMMARY

Based on the foregoing, Applicant respectfully submits that the present application is in condition for allowance, and a favorable action thereon is respectfully requested. Should the Examiner feel that any other point requires consideration or that the form of the claims can be improved, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,



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Amendments to the Drawings

FIG.'s 1 and 2 have been amended to indicate that portions of the first indentation 30 are labeled as 80 and 82, and that portions of the second indentation 32 are labeled 84 and 86.

FIG.'s 1 and 3 have been amended to indicate the width of the flat side 28 is labeled as 90. FIG.'s 1 and 3 have also been amended to indicate that the cross-sectional width of the intermediate section of the bar is labeled as 92.